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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		1033-SS00419	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" (37 CFR 1.8(a))		Application Number	Filed
on <u>March 9, 2006</u>		10/669,171	09/23/2003
Signature <u>Emma L. Meyer</u>		First Named Inventor	
Typed or printed name <u>Emma L. Meyer</u>		Brian Gonsalves, et al.	
		Art Unit	Examiner
		2179	HUYNH, Ba
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		<u>[Signature]</u> Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		<u>Jeffrey G. Toler</u> Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>38,342</u>		<u>(512) 327-5515</u> Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>3-8-2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Brian Gonsalves, et al.

Title: SYSTEM AND METHOD FOR PROVIDING MANAGED POINT TO POINT SERVICES

App. No.: 10/669,171

Filed: September 23, 2003

Examiner: HUYNH, Ba

Group Art Unit: 2179

Customer No.: 34456

Confirmation No.: 1042

Atty. Dkt. No.: 1033-SS00419

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Mail Stop AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**REMARKS IN SUPPORT OF  
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed December 13, 2005 (hereinafter, "the Final Office Action"), Applicants respectfully request review and reconsideration of the Application in view of the following issues.

***1. Swart Fails to Disclose or Suggest at Least One Element of Each of the Claims.***

Applicants respectfully traverse the rejection of claims 1-24 under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2003/0028890 A1 ("Swart"). Swart fails to disclose or suggest at least one element of each of the independent claims 1, 16, and 24.

Swart discloses an aggregator, operating in a digital communications network, including a request and results processing server, a search engine server, and a content acquisition server. *See Swart*, Abstract. The request and results processing server receives a request for content, the search engine server searches for the content and the content acquisition program acquires the content for delivery to the user. *See Swart*, Abstract and p. 3, paragraphs 0044-0045. Swart discloses that the system takes a user's search request and performs a search of "virtually every

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active and scheduled radio and television channel in the world,” as well as archived sources of video and audio programming such as movies and recorded audio sources. *See Swart*, p. 3, paragraph 0045. Swart discloses that the system also searches Internet websites and other online databases. *See Swart*, p. 3, paragraph 45. Thus, the system of Swart performs searches based on a received query and generates a list of results. Swart fails to disclose or suggest a mapping engine maintaining a list of available content sources comprising the video content source, as recited by claim 1.

The Final Office Action asserts that Swart discloses a network service engine to track a metric associated with user access to the information system, citing to Swart paragraph 0056. *See Final Office Action*, p. 2, paragraph 1. However, Swart does not disclose this feature. Swart discloses a local user storage to store and archive content onto one or more removable and/or non-removable storage devices for later access. *See Swart*, p. 4, paragraph 56. Swart discloses that the local user storage is also a local repository of “all relevant information about a user’s profile and account,” including user name, password, personal information, billing information, other user access information, past search criteria, past content download information, and library information about stored content. *See Swart*, p. 4, paragraph 0056. Swart discloses that the user may select which data may be reported to a main system database within the aggregator. *See Swart*, p. 4, paragraph 0056. However, the local storage content of Swart is at the customer premises, and is not part of the network services system.

Swart fails to disclose or suggest a services engine operable to initiate sending of the delivery request and to track a metric associated with user access to the information stream, as recited by claim 1. Swart also fails to disclose or suggest a network services method including tracking a metric associated with communication of the information stream, as recited by claim 16. Further, Swart fails to disclose or suggest a computer readable medium having computer-readable data tangibly embodying a program of instructions, where the processor is adapted to track a metric associated with communication of the information stream, as recited by claim 24. Thus, Swart fails to disclose or suggest at least one element of each of the independent claims. Accordingly, claims 1, 16, and 24 are allowable over Swart.

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Dependent claims 2-15 and 17-23 depend from one of the independent claims 1 or 16. Since Swart fails to disclose or suggest at least one element of each of the independent claims, Swart fails to disclose or suggest at least one element of each of the dependent claims 2-15 and 17-23, at least by virtue of their dependency from claims 1 or 16. Thus, claims 2-15 and 17-23 are allowable over Swart.

Additionally, Swart fails to disclose or suggest particular features of the dependent claims. For example, with respect to claim 2, the Final Office Action asserts that Swart discloses an authentication engine that is communicatively coupled to the access unit and operable to consider an initial set of credentials from a user, citing paragraphs 0056 and 0057 of Swart. *See Final Office Action*, p. 3. The Final Office Action asserts that Swart further discloses an authentication engine, stating:

As for claim 2: An authentication engine communicatively coupled to the access unit and operable to consider an initial set of credential [sic] received from a user (0056, 0057), the authentication engine operable to establish link to the network in response to the authorization of the initial set of credentials.

*See Final Office Action*, p. 3.

However, this phrasing is a paraphrase of the claim language that alters the plain text of the claim to fit the teachings of Swart. In particular, Swart discloses in paragraphs 0056 and 0057 that the local user terminal includes a storage to store information about the user, including username, password, personal information, account number, billing information, and the like. *See Swart*, p. 4, paragraph 0056. However, the user terminal of Swart includes a processor for performing all operations within the user terminal 202. *See Swart*, p. 4, paragraph 0057. Swart discloses a central processing unit of the user terminal that controls communications between the user and the local storage and that implements the user portion of the digital rights management schema. *See Swart*, p. 4, paragraph 0057. However, Swart discloses that certain fields within the local storage, such as account numbers and billing information, may be inaccessible to a user. *See Swart*, p. 4, paragraph 0056. Swart fails to disclose how the user terminal utilizes the username and password information, except to control access to the locally stored information. *See Swart*, p. 4, paragraph 0056. It is the terminal of Swart that performs authentication and authorization, and not the network services system.

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Claim 2 recites an authorization engine operable to enable link establishment by the services engine in response to authentication of the initial set of credentials. By contrast, the user terminal of Swart enables link establishment by the user terminal, not the services engine. *See Swart*, p. 4, paragraph 0056. Thus, Swart fails to disclose or suggest this feature.

With regard to claims 3 and 18, the Final Office Action acknowledged that Swart fails to teach the voice interface, but took Official Notice that implementation of a phone interface is well known and would have been obvious. However, the Final Office Action failed to provide any support for the assertion. The Final Office Action asserts that Swart discloses an access engine at paragraph 0048. In paragraph 0048, Swart discloses that an aggregator supplies the desired program by pulling programs from program delivery systems and delivering the program to system users. *See Swart*, pp. 3-4, paragraph 0048. Swart fails to disclose or suggest a telephone interface associated with the access engine, the interface operable to receive a voice call, as recited by claims 3 and 18.

With regard to claim 12, Swart discloses a billing engine that generates a bill to a customer (*See Swart*, paragraphs 0059 and 0072). However, Swart fails to disclose or suggest a prepayment engine operable to inform the user of a cost associated with accessing the video content source and to accept a payment input from the user indicating a method of paying the cost, as recited by claim 12. It would not have been obvious to a worker skilled in the art to provide a pre-payment engine, as recited by claim 12.

With regard to claim 15, the Final Office Action asserts that Swart discloses a list of video content available to the user is based on an editable user account information, citing Swart at paragraph 0056. *See Final Office Action*, p. 5. However, Swart actually discloses a system that assembles a list of video content by searching based on a user query. *See Swart*, p. 3, paragraph 45. By contrast, claim 15 recites the method of claim 1 wherein the mapping engine is further operable to be remotely updated in order to alter the list. Swart fails to disclose or suggest the particular combination of features recited by claim 15.

With regard to claim 18, while the Final Office Action states that claim 18 was rejected at page 2, the Final Office Action provides no basis for the rejection. Swart fails to disclose or suggest receiving a spoken directive from a calling party and converting the spoken directive into

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the request for connection, as recited by claim 18. The Final Office Action has provided no basis for rejecting claim 18 over Swart, which fails to disclose or suggest any such conversion of a spoken directive. Therefore, claim 18 is allowable.

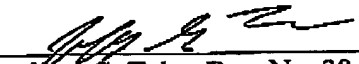
With regard to the other prior art made of record but not relied upon, at pages 6 and 7 of the Final Office Action, none of the references disclose, alone or in combination, the particular arrangement of features recited in claims 1-24 of the application. For example, the references indicated to display total cost to a purchaser fail to disclose or suggest a pre-payment engine, among other features.

**Conclusion**

As discussed above, the Final Office Action fails to establish that the cited references and the proposed combinations thereof disclose or suggest the specific combinations of elements recited by the claims. Accordingly, the pending claims are allowable over the cited references. Applicants therefore request reconsideration and withdrawal of all pending rejections.

Respectfully submitted,

3-8-2006  
Date

  
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